

September 24, 2018

VIA ELECTRONIC FILING

Honorable Vince Chhabria
United States District Court
San Francisco Courthouse, Courtroom 4
450 Golden Gate Avenue
San Francisco, CA 94102

Re: *In re Facebook, Inc. Consumer Privacy User Profile*,
Northern District of California Case No. 3:18-md-02843-VC

Dear Judge Chhabria:

We write regarding certain procedural motions pending before Your Honor. As we have previously noted, *see* ECF No. 143, ministerial complaints were filed last week, ECF Nos. 144-2; 145-2, 145-3, 147-2, 154-4, to ensure that the additional plaintiffs in those complaints could be properly included in the Consolidated Complaint. *See In re Mortg. Elec. Registration Sys. Litig.*, MD-09-02119-PHX-JAT, 2016 WL 3931820, at *5 (D. Ariz. July 21, 2016) (“A plaintiff may not unilaterally add actions in the MDL that have not been pending in federal court elsewhere or which were not transferred to the transferee court through the MDL process”); 28 U.S.C. § 1407(a) (MDL proceedings concern the consolidation of pre-existing “civil actions involving one or more common questions of fact”). Including additional plaintiffs who have filed original proceedings in a consolidated complaint is more efficient than seeking leave to amend a consolidated pleading at a later date. *Cf. In re Caterpillar Inc.*, 67 F. Supp. 3d 663, 669 (D.N.J. 2014) (granting leave to amend consolidated complaint in MDL in its “infancy” after motions to dismiss regarding consolidated complaint had been filed).


These filings were not intended to bear on a separate question pending before this Court, which is whether *Rankins v. Facebook, Inc.*, Case No. 3:18-cv-05350-VC (N.D. Cal.) and *Hwang v. Facebook, Inc.*, No. 4:18-cv-05357-JSW (N.D. Cal.) should be related to this MDL. When filing their motion to relate the newly filed actions, Co-Lead Counsel did not believe they were required to serve counsel for Rankins and Hwang because they were moving to relate those actions to the MDL, not the *Rankins* and *Hwang*. Indeed, counsel for *Rankins* and *Hwang* did not serve Co-Lead counsel when they sought to relate their claims to each other in their own dockets. *Rankins* ECF No. 15; *Hwang* ECF No. 13.

Last week, Co-Lead counsel moved for leave to file a reply in support of their request to relate *Hwang* and *Rankins* to this action. Counsel for Hwang were served with this motion via ECF because they have appeared in this MDL already. We did initially fail to serve the motion

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for leave on Rankins' counsel. As soon as we were told of this oversight, we served the motion on Rankins' counsel, whom we also invited to file an appearance in this MDL so that they can be automatically served in the future.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Derek W. Loeser".

Derek W. Loeser
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A handwritten signature in blue ink, appearing to read "Lesley E. Weaver".

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DWL:srs